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## NOTICE OF *EX PARTE* PRESENTATION

February 17, 2005

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWA325  
Washington, DC 20554

**Re: Level 3 Communications LLC's Petition for Forbearance Under 47 U.S.C. §160(c) and Section 1.53 of the Commission's Rules from Enforcement of Section 251(g), Rule 51.701(b)(1), and Rule 69.5(b), WC Docket No. 03-266**

Dear Ms. Dortch:

The attached written *Ex Parte* Presentation concerning the above-referenced proceeding was sent to the Commissioners on behalf of the United States Telecom Association (USTA). In accordance with FCC Rule 1.1206(b)(1),<sup>1</sup> this Notice of *Ex Parte* Presentation and a copy of the *Ex Parte* Presentation are being filed with you electronically for inclusion in the public record. Please feel free to contact me at (202) 326-7300 if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Robin E. Tuttle", is positioned above a horizontal line.

Robin E. Tuttle  
Associate Counsel

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<sup>1</sup> 47 C.F.R. §1.1206(b)(1).



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***EX PARTE PRESENTATION***

February 17, 2005

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 B201  
Washington, DC 20554

The Honorable Michael Copps  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 A302  
Washington, DC 20554

The Honorable Kathleen Q. Abernathy  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 B115  
Washington, DC 20554

The Honorable Jonathan Adelstein  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 C302  
Washington, DC 20554

The Honorable Kevin Martin  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8 A204  
Washington, DC 20554

**Re: Level 3 Communications LLC's Petition for Forbearance Under 47 U.S.C. §160(c) and Section 1.53 of the Commission's Rules from Enforcement of Section 251(g), Rule 51.701(b)(1), and Rule 69.5(b), WC Docket No. 03-266**

Dear Commissioners:

The undersigned USTA small and mid-sized member companies strongly urge the Commission to deny Level 3's petition for forbearance from selected interstate access charge rules, which must be decided by March 22, 2005 or it will be deemed granted. Level 3's petition does not seek deregulation, but rather aims to reduce the charges that long distance companies using Voice over Internet Protocol (VoIP) pay when they deliver traffic to the public switched telephone network (PSTN).

USTA and its members are concerned that granting Level 3's petition would deprive rural carriers of access revenues, thus hindering their ability to build out broadband networks and continue

to provide affordable service; prove impractical to administer; and encourage further gaming of the intercarrier compensation regime while jeopardizing reform of that system.

***GRANT OF THE PETITION WOULD ADVERSELY IMPACT RURAL CARRIERS.*** USTA's small and mid-sized companies, predominantly serving rural areas, wish to continue to offer affordable telephone service and to contribute to the national goal of building out broadband networks across the country. Obviously, if they are deprived of a significant portion of their revenue, their ability to achieve these ends is jeopardized. Level 3's requested rule changes will inevitably increase pressure on universal service and end-user rates and slow down the roll-out of broadband networks, particularly in rural areas.

The so-called rural carve-out proposed in the Level 3 petition offers only illusory relief. While it purports to allow a rural carrier to continue to receive access charges for VoIP to PSTN traffic, marketplace reality will result in USTA's rural ILEC members being stripped of their ability to collect access charges. CLECs like Level 3 generally do not have direct interconnection agreements with rural ILECs, but rather rely on indirect interconnection arrangements with non-rural ILECs. There is no practical method to differentiate terminating calls originated by VoIP customers from those originated by PSTN customers. Just as there is no reliable means for a non-rural ILEC to identify traffic originated by a VoIP provider for purposes of separating out traffic on which access charges are owed versus that on which they are not owed, there is similarly no reliable means for non-rural ILECs to separate VoIP traffic intended for a rural ILEC to then re-route such traffic over access trunks to rural ILECs. Level 3's proposed rural exemption, therefore, is a chimera.

***GRANT OF THE PETITION WOULD UNDERMINE COMPREHENSIVE INTERCARRIER COMPENSATION REFORM.*** USTA and its members also are concerned that granting Level 3's petition would undermine the Commission's goal to reform intercarrier compensation comprehensively. Level 3's forbearance petition would grant one group of long distance companies artificial regulatory advantages that would be jeopardized by comprehensive reform, so those companies would be expected to oppose future Commission reform efforts.

By offering a favored class of VoIP providers lower prices, the Commission would also promote gaming of the system. Other long distance companies will be encouraged to disguise regular long distance traffic as VoIP-originated calls in order to take advantage of the lower prices offered to VoIP traffic. This will further destabilize the current system while complicating reform efforts.

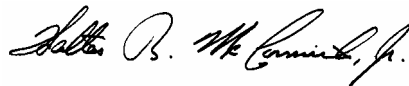
Compounding the inequitable nature of the relief Level 3 seeks, its petition appears to allow VoIP-based companies to collect access charges for long distance calls to their subscribers, further promoting an undesirable regulatory asymmetry. Not only does this asymmetry distort markets, it also produces the undesirable result of forcing companies building broadband local networks to subsidize long distance companies without local networks. Thus, ironically, granting the petition will slow down the spread of broadband as well as slow down intercarrier compensation reform efforts.

***CONCLUSION.*** The Commission should not be in the position of picking winners or losers in this new competitive world by allowing one class of long distance carriers to pay a lower price than others for terminating calls on the PSTN. Level 3's attempt to gain a lower price than its competitors is a misuse of the forbearance process; it is not seeking forbearance, but rather a cheaper price. USTA

FCC Commissioners  
February 17, 2005

and its small and mid-sized member companies that are signatories to this letter urge the Commission to deny Level 3's petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Walter B. McCormick, Jr.", written in a cursive style.

Walter B. McCormick, Jr.

*See attached list of USTA member companies*

Signatories to USTA February 17, 2005 Letter  
Opposing Level 3 Petition

1. Albion Telephone Co. d.b.a. ATC Communications, Albion, ID
2. All West Communications, Karnas, UT
3. ALLTEL Corp., Little Rock, AR
4. Amherst Telephone Company, Amherst, WI
5. Andrew Telephone Co., Andrew, IA
6. Armstrong Telephone Company - Maryland
7. Armstrong Telephone Company - New York
8. Armstrong Telephone Company - Northern Div.
9. Armstrong Telephone Company - Pennsylvania
10. Armstrong Telephone Company - West Virginia
11. Arrowhead Communications Corporation, MN
12. Bear Lake Communications, Fairview, UT
13. Beggs Telephone Company, Inc, Beggs, OK
14. Ben Lomand Telephone Cooperative, Inc. McMinnville, TN
15. Bentleyville Telephone Company, Bentleyville, PA
16. Benton Ridge Telephone Company, Benton Ridge, OH
17. Berkshire Telephone Corp., Kinderhook, NY
18. Blanca Telephone Company, Alamosa, CO
19. Blue Earth Valley Telephone Company, Blue Earth, MN
20. BPS Telephone Company, Bernie, MO
21. Brantley Telephone Co., Inc., Nahunta, GA
22. Bretton Woods Telephone Co., Inc. Bretton Woods, NH
23. Buffalo Valley Telephone Company, Lewisburg, PA
24. Butler-Bremer Mutual Telephone Company, Plainfield, IA
25. Cal-Ore Telephone Co. Dorris, CA
26. Cambridge Telephone Company, Cambridge, ID
27. Cameron Telephone Company, LLC, Sulphur, LA
28. Carnegie Telephone Co. Carnegie, OK
29. Cass Communication Management Inc., Virginia, IL
30. Cassadaga Telephone Corporation, Fredonia, NY
31. CC Communications, Fallon, NV
32. Center Junction Telephone Co., Center Junction IA
33. Central Oklahoma Telephone Co., Davenport, OK
34. Central Utah Telephone, Inc., Fairview, UT
35. CenturyTel, Inc., Monroe, LA
36. Champaign Telephone Company, Urbana, OH
37. Chariton Valley Telephone Corporation, Moberly, MO
38. Cherokee Telephone Co., Calera OK
39. Chesnee Telephone Company, Inc., Chesnee, SC
40. Chester Telephone Company, Chester, SC
41. Chippewa County Telephone Company, Brimley, MI
42. Citizens Telephone Corp, Warren, IN

Signatories to USTA February 17, 2005 Letter  
Opposing Level 3 Petition

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|--|--|
| 43. Clear Lake Telephone Company, Clear Lake, WI                           | 66. Dunbarton Telephone Company, Dumbarton, NH                 |
| 44. Clements Telephone Company, Redwood, MN                                | 67. Dunkirk and Fredonia Telephone Company, Fredonia, NY       |
| 45. C-M-L Telephone Cooperative, Meriden, IA                               | 68. Duo County Telephone Cooperative Corp. Inc., Jamestown, KY |
| 46. Colo Telephone Company, Colo, IA                                       | 69. Eagle Telephone System Inc., Richland, OR                  |
| 47. Commonwealth Telephone Enterprises, Dallas, TX                         | 70. Eagle Valley Telephone Company, MN                         |
| 48. Community Telephone Co. Inc., Windthorst, TX                           | 71. Eastex Telephone Cooperative, Inc. Henderson, TX           |
| 49. Comporium Communications, Rockhill, SC                                 | 72. Easton Telephone Company, Blue Earth, MN                   |
| 50. Comsouth, Hawkinsville, GA   | 73. EATEL, Gonzales, LA  |
| 51. Conestoga Telephone Company, Birdsboro, PA                             | 74. Eckles Telephone Company, Blue Earth, MN                   |
| 52. Consolidated Communications, St. Louis, MO                             | 75. Elizabeth Telephone Company, LLC, Sulphur, LA              |
| 53. Cooperative Telephone Co, Victor, IA                                   | 76. Ellington Telephone Company, Ellington, Missouri           |
| 54. Copper Valley Telephone Cooperative Inc., Valdez, AK                   | 77. Enhanced Telecommunications Corp. Sunman, IN               |
| 55. Craigville Telephone Company, Craigville, IN                           | 78. Epic Touch Co. Elkhart, KS                                 |
| 56. CRC Communications of Maine, Inc., Portland, ME                        | 79. FairPoint Communications, Charlotte, NC                    |
| 57. Crown Point Telephone Corporation, Crown Point, NY                     | 80. Farmers Telephone Company, Inc, Essex, IA                  |
| 58. CT Communications, Inc., Concord, NC                                   | 81. Felton Telephone Company, MN                               |
| 59. Cumby Telephone Cooperative, Cumby, TX                                 | 82. Frontier Telephone Company, Rochester, NY                  |
| 60. Curtis Telephone Company, Curtis, NE                                   | 83. Geneseo Telephone Company, Geneseo, IL                     |
| 61. Darien Telephone Company, Darien, GA                                   | 84. Germantown Telephone Company, Germantown, NY               |
| 62. Deerfield Farmers' Tel. Co., Petersburg, MI                            | 85. Gorham Telephone Company, Gorham, KS                       |
| 63. Delcambre Telephone Co, Inc., Delcambre, LA                            | 86. Granada Telephone Company, MN                              |
| 64. Denver and Ephrata Telephone Company (D&E Communications), Ephrata, PA | 87. Granby Telephone & Telegraph Company, Ranby, MA            |
| 65. Diller Telephone Co., Diller, NE                                       |  |

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| 88. Grand Telephone Company, Inc., Jay, OK                             | 111. InterBel Telephone Cooperative, Eureka, MT            |
| 89. Green Hills Telephone Corporation, Breckenridge, MO                | 112. Inter-Community Telephone Co., Nome, ND               |
| 90. Gridley Telephone Co., Gridley, IL                                 | 113. Iowa Telecom, Newton, IA                              |
| 91. Guadalupe Valley Telecommunications Cooperative, New Braunfels, TX | 114. Jefferson Telephone Company, Jefferson, IA            |
| 92. H&B Communications, Inc., Holyrood, KS                             | 115. Kalona Cooperative Telephone Co. Kalona, IA           |
| 93. Hager Telecom, Inc., Hager WI                                      | 116. Kaplan Telephone Co., Inc., Kaplan, LA                |
| 94. Hamilton Telecommunications, Aurora, NE                            | 117. Kerman Telephone, Kerman, CA                          |
| 95. Harmony Telephone Company, Harmony, MN                             | 118. Kinsman Mutual Telephone Company, Kinsman, IL         |
| 96. Harrisonville Telephone Company, Waterloo, NE                      | 119. KMTelecom, Kasson, MN                                 |
| 97. Heartland Telecommunications Company, IA                           | 120. Lakedale Communications, Annandale, MN                |
| 98. Henry County Telephone Company, Geneseo, IL                        | 121. Lakefield Telephone Company, Newton, WI               |
| 99. Hiawatha Communications, Inc. Munsing, MI                          | 122. Laurel Highland Telephone Co. Stalstown, PA           |
| 100. Hinton Telephone Co., Inc., Hinton, OK                            | 123. Lehigh Valley Cooperative Telephone Assoc. Lehigh, IA |
| 101. Home Telephone Co., St. Jacob, IL                                 | 124. Le-Ru Telephone Company, Stella, MO                   |
| 102. Home Telephone Co., Grand Meadow, MN                              | 125. LEXCOM Telephone Company, Lexington, NC               |
| 103. Home Telephone Company, Inc., Moncks Corner SC                    | 126. Lincolnville Telephone Co., Lincolnville Center, ME   |
| 104. Horizon, Chillicothe Telephone, Chillicothe,                      | 127. Loretel Systems, Inc., MN                             |
| 105. Hospers Telephone Company, Hospers, IA                            | 128. Madison River Communications, Mebane, NC              |
| 106. Hot Springs Telephone Co., Hot Springs, MT                        | 129. Mankato Citizens Telephone Co., Mankato MN            |
| 107. Humboldt Telephone Company  | 130. Margaretville Telephone Co., Margaretville, NY        |
| 108. Hutchinson Telephone Company, Hutchinson, MN                      | 131. MetroTel, Texarkana, TX                               |
| 109. Huxley Communications Cooperative, Huxley, IA                     | 132. Mid-Communications, Inc. Mankato, MN                  |
| 110. Indianhead Telephone Company, Weyerhauser, WI                     | 133. Midway Telephone Co., Watton, MI                      |

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Opposing Level 3 Petition

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| 134. Midwest Telephone Company, Parkers Prairie, MN                | 156. Oregon-Idaho Utilities, Inc., San Francisco, CA            |
| 135. Minburn Telecommunications, Inc., Minburn, IA                 | 157. Osakis Telephone Company, Parkers Prairie, MN              |
| 136. Minburn Telephone Company, Minburn, IA                        | 158. Otter Tail Telcom, Fergus Falls, MN                        |
| 137. Minford Telephone Company, Minford, OH                        | 159. Palmetto Rural Telephone Cooperative, Inc., Watterboro, SC |
| 138. Minnesota Lake Telephone, Blue Earth, MN                      | 160. Park Region Mutual Telephone, Underwood, MN                |
| 139. Moapa Valley Telephone Co, Overton, NV                        | 161. Pattersonville Telephone Company, Rotterdam Junction, NY   |
| 140. Monon Telephone Company Inc., Monon, IN                       | 162. Paul Bunyan Rural Telephone Coop., Bemidji, MN             |
| 141. Monroe Telephone Company, Monroe, OR                          | 163. PBT Telecom, Inc., Gilbert, SC                             |
| 142. Montrose Mutual Telephone Co., Inc., Dietrich, IL             | 164. Peace Valley Telephone Co. Inc., Peace Valley, MO.         |
| 143. Moultrie Independent Telephone Company, Lovington, IL         | 165. Piedmont Rural Tel Coop, Laurens, SC                       |
| 144. Mt. Angel Telephone Company, Mt. Angel, OR                    | 166. Pigeon Telephone Company, Pigeon, MI                       |
| 145. New Ulm Telecom, Inc., New Ulm, MN                            | 167. Pine Drive Telephone Co., Beulah, CO                       |
| 146. Nicholville Telephone Co., Nicholville, NY                    | 168. Pine Island Telephone Company, MN                          |
| 147. Nortex Communications, Muenster, TX                           | 169. Pinnacles Telephone Co., Paicines, CA                      |
| 148. North Pittsburgh Telephone Company, Gibsonia, PA              | 170. Pioneer Communications, Ulysses, KS                        |
| 149. North State Communications, High Point, NC                    | 171. Pioneer Telephone Cooperative, Inc., Kingfisher, OK        |
| 150. North-Eastern Pennsylvania Telephone Company, Forest City, PA | 172. Polar Communications, Park River, ND                       |
| 151. Northern Arkansas Telephone Company, Chattaroy, WA            | 173. Ponderosa Telephone, O'Neals, CA                           |
| 152. Newport Telephone Co., Newport NY                             | 174. Pottawatomie Telephone Company, Earlsboro, OK              |
| 153. Ogden Telephone Company, Ogden, IA                            | 175. Preston Telephone Co, Preston, IA                          |
| 154. Olin Telephone Co., Olin, IA                                  | 176. Range Telephone Cooperative, Inc., Forsyth, MT             |
| 155. Ontonagon County Telephone Company, Ontonagon, MI             | 177. Redwood County Telephone Company, Wabasso, MN              |



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|---|---|
| 178. Reynolds Telephone Company, Reynolds, IL               | 200. Telephone Service Company, Wapakoneta, OH              |
| 179. Rice Belt Telephone Co., Inc., Weiner, AR              | 201. The Champaign Telephone Company, Urbana, OH            |
| 180. Richmond Telephone Company, Richmond, MA               | 202. The Chillicothe Telephone Company, Chillicothe, OH     |
| 181. Rochester Telephone Co., Inc., Rochester, IN           | 203. The Kalida Telephone Co., Kalida, OH                   |
| 182. Rockwell Cooperative Telephone Assn. Rockwell, IA      | 204. The Nova Telephone Company, Nova, OH                   |
| 183. Rothsay Telephone Co., Rothsay, MN                     | 205. The Peoples Telephone Co., Bigfork, MN                 |
| 184. Saco River Telegraph & Telephone Company, Barmills, ME | 206. The Pine Tree Telephone & Telegraph Company, Gray, MI  |
| 185. Sandwich Isles Communications, Inc., Honolulu, HI      | 207. The Rainier Group, Tacoma, WA                          |
| 186. Shell Rock Telephone Co., Shell Rock, IA               | 208. Tidewater Telecom, Nobleboro, ME                       |
| 187. Shenandoah Telephone Company, Edinburg, VA             | 209. Topsham Telephone Company, East Corinth, VT            |
| 188. Sherburne Tele-Systems, Inc., Big Lake, MN             | 210. Tularosa Basin Telephone Co. Inc. Tularosa, NM         |
| 189. Sherwood Mutual Telephone Association, Sherwood, OH    | 211. Tularosa Communications Inc., Tularosa, NM             |
| 190. Sierra Telephone Co., Inc., Oakhurst, CA               | 212. Twin Valley Telephone, Inc., Miltonvale, KS            |
| 191. Silver Star Communications, Freedom, WY                | 213. Union Telephone Company, Plainfield, WI                |
| 192. Siskiyou Telephone, Etna, CA                           | 214. United Telephone Company, Chapel Hill, TN              |
| 193. Skyline Telecom, Fairview, VT                          | 215. United Utilities, Inc., Anchorage, AK                  |
| 194. Sleepy Eye Telephone Company, MN                       | 216. Unitel Inc. Unity, ME                                  |
| 195. Smart City Telecom, Lake Buena Vista, FL               | 217. Valley Telephone, Watertown, SC                        |
| 196. Southwest Texas Telephone Company, Rock Springs, TX    | 218. Valor Communications Group, Inc., Irving, TX           |
| 197. Superior Telephone Coop, Superior, IA                  | 219. Van Horne Co-op Telephone Company, Van Horne, IA       |
| 198. SureWest Communications, Roseville, CA                 | 220. Volcano Telephone Company, Pine Grove, CA              |
| 199. TeleGuam Holdings, LLC, Tamuning, Guam                 | 221. Waitsfield and Champlain Valley Telecom Waitsfield, VT |
|   | 222. Waldron Telephone Co., Waldron, KS                     |

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| 223. Wamego Telecommunications Co. Wamego, KS                          | 229. West Tennessee Telephone Co., Inc., Bradford, TN |
| 224. War Telephone Company, War, WV                                    | 230. WesTel Systems, Remsen, IA                       |
| 225. Washington County Rural Telephone Coop.<br>Pelcin, IN             | 231. Western New Mexico Tel Co. Silver City, NM       |
| 226. Waverly Hall Telephone, LLC., Waverly Hall, GA                    | 232. Willard Telephone Co., Willard, CO               |
| 227. Webster-Calhoun Cooperative Telephone<br>Association, Gowrie, IA. | 233. WVT Communications, Warwick, NY                  |
| 228. West Point Telephone Co Inc., West Point, IN                      | 234. Yukon Telephone Co, Inc., Wasilla, AK            |